

ASSEMBLY BILL

No. 1722

Introduced by Assembly Member Hagman

February 3, 2010

An act to amend Sections 7504, 7504.2, 7506.5, 7506.9, 7507.3, 7507.9, and 7507.12 of the Business and Professions Code, and to amend Sections 14602.8 and 22651 of the Vehicle Code, relating to collateral recovery.

LEGISLATIVE COUNSEL'S DIGEST

AB 1722, as introduced, Hagman. Collateral recovery.

Existing law, the Collateral Recovery Act, provides for the licensure and regulation of repossession agencies by the Bureau of Security and Investigative Services under the supervision and control of the Director of Consumer Affairs. Any person who violates these provisions is guilty of a crime punishable by fine and imprisonment. Existing law requires an applicant for a qualification certificate or for an initial registration or reregistration to submit an application to the bureau and include certain personal information in the application that is confidential and is prohibited from being disclosed to the public.

This bill would specify that a repossession agency is also prohibited from disclosing that personal information, including the cell phone number, of an applicant for a qualification certificate or for an initial registration or reregistration.

Existing law requires the bureau to give examinations and reexaminations for a qualification certificate every other month.

This bill would instead require those examinations to be given every 3 months.

Existing law prohibits a person from performing the duties of a registrant for a licensed repossession agency unless the person has in his or her possession a valid reposessor registration card or evidence of a valid temporary registration or registration renewal.

This bill would authorize a person to perform the duties of a registrant for a licensee pending receipt of a registration card if the person has been approved by the bureau and carries on his or her person a hardcopy printout of the bureau's approval from the bureau's Internet Web site.

Existing law requires a repossession agency to keep and maintain adequate records of all transactions, including assignment forms. Existing law authorizes an assignment form to be an original, photocopy, facsimile copy, or a copy stored in electronic format.

This bill would also authorize an assignment form to be a copy stored in an e-mail or text message.

Existing law requires a repossession agency to inventory the personal effects removed from recovered collateral and authorizes those personal effects to be disposed of after being held for at least 60 days. Existing law requires the inventory to be filed in the permanent records of the licensee. Existing law establishes that the inventory is a confidential document and prohibits the disclosure of the contents of the inventory except under specified circumstances.

This bill would provide that the inventory of personal effects is only required to be filed in the permanent records of the licensee for a period of 4 years. The bill would require out-of-state license plates to be removed from collateral and inventoried. The bill would provide that disclosing the existence of an inventory and any associated fees is also prohibited except under specified circumstances.

Existing law provides a repossession of certain collateral that is subject to vehicle registration is complete when the reposessor gains entry to the collateral or when the collateral becomes connected to a tow truck or the reposseors tow vehicle.

This bill would also provide that a repossession of that collateral is complete when the reposessor moves, pushes, or gains control of the collateral.

Existing law authorizes a peace officer or certain employees, who are engaged in directing traffic or enforcing parking laws and regulations, of a city, county, or jurisdiction of a state agency in which a vehicle is located, to remove a vehicle under specified circumstances, including, among other circumstances, when a vehicle is found or operated upon a highway, public land, or an offstreet parking facility

with a registration card that is fraudulent or not for that vehicle or with a registration expiration date in excess of 6 months before the date the vehicle is found or operated. Existing law authorizes these removed vehicles to be released to the owner or person in control of the vehicle after the owner or person furnishes the storing law enforcement agency with proof of current registration and a currently valid driver's license to operate the vehicle. Existing law authorizes the impoundment of a removed vehicle, or a vehicle found upon a highway or public land, that has been issued 5 or more notices of parking violations to which the owner or person in control of the vehicle has not responded, or if the registered owner of the vehicle is known to have been issued 5 or more notices for failure to pay or failure to appear in court for traffic violations, as specified. Existing law authorizes these impounded vehicles to be released to the legal owner if certain conditions have been satisfied, including, among other things, that the legal owner completes a specified affidavit.

This bill would, for a vehicle removed for having a fraudulent or expired registration, authorize the vehicle to be released to the legal owner or the legal owner's agent without proof of current registration if the vehicle will only be transported to a reposessor's storage facility, and from the storage facility to the legal owner or a licensed motor vehicle auction, as specified. The bill would also delete the requirement that a legal owner complete an affidavit in order to release a vehicle impounded for failure to respond to parking violation notices or for failure to pay or appear in court for traffic violations.

Because a violation of the bill's provisions under the Collateral Recovery Act would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7504 of the Business and Professions
- 2 Code is amended to read:

1 7504. (a) Except as otherwise provided in this chapter, an
2 applicant for a qualification certificate shall comply with all of the
3 following:

4 (1) Be at least 18 years of age.

5 (2) Have been, for at least two years of lawful experience, during
6 the five years preceding the date on which his or her application
7 is filed, a registrant or have had two years of lawful experience in
8 recovering collateral within this state. Lawful experience means
9 experience in recovering collateral as a registrant pursuant to this
10 chapter or as a salaried employee of a financial institution or
11 vehicle dealer. Lawful experience does not include any employment
12 performing work other than skip tracing, debt collection, or actual
13 collateral recovery.

14 Two years' experience shall consist of not less than 4,000 hours
15 of actual compensated work performed by the applicant preceding
16 the filing of an application.

17 An applicant shall certify that he or she has completed the
18 claimed hours of qualifying experience and the exact details as to
19 the character and nature thereof by written certifications from the
20 employer, licensee, financial institution, or vehicle dealer, subject
21 to independent verification by the director as he or she may
22 determine. In the event of the inability of an applicant to supply
23 the written certifications from the employer, licensee, financial
24 institution or vehicle dealer, in whole or in part, applicants may
25 offer other written certifications from other persons substantiating
26 their experience for consideration by the director. All certifications
27 shall include a statement that representations made are true, correct,
28 and contain no material omissions of fact to the best knowledge
29 and belief of the applicant or the person submitting the certification.
30 An applicant or person submitting the certification who declares
31 as true any material matter pursuant to this paragraph that he or
32 she knows to be false is guilty of a misdemeanor.

33 (3) Complete and forward to the bureau a qualified certificate
34 holder application which shall be on a form prescribed by the
35 director and signed by the applicant. An applicant who declares
36 as true any material matter pursuant to this paragraph that he or
37 she knows to be false is guilty of a misdemeanor. The application
38 shall be accompanied by two recent photographs of the applicant,
39 of a type prescribed by the director, and two classifiable sets of
40 his or her fingerprints. The residence address, residence telephone

1 number, *cell phone number*, and driver's license number of each
2 qualified certificate holder or applicant for a qualification
3 certificate, if requested, shall be confidential pursuant to the
4 Information Practices Act of 1977 (Chapter 1 (commencing with
5 Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code)
6 and shall not be released to the public *by the bureau or the*
7 *repossession agency*.

8 (4) Pass the required examination.

9 (5) Pay the required application and examination fees to the
10 bureau.

11 (b) Upon the issuance of the initial qualification certificate or
12 renewal qualification certificate, the bureau shall issue to the
13 certificate holder a suitable pocket identification card which
14 includes a photograph of the certificate holder. The photograph
15 shall be of a size prescribed by the bureau. The card shall contain
16 the name of the licensee with whom the certificate holder is
17 employed.

18 (c) The application form shall contain a statement informing
19 the applicant that a false or dishonest answer to a question may be
20 grounds for denial or subsequent suspension or revocation of a
21 qualification certificate.

22 SEC. 2. Section 7504.2 of the Business and Professions Code
23 is amended to read:

24 7504.2. Examinations and reexaminations shall be given at
25 least once every ~~other month~~ *three months* at such places and on
26 such specific dates as the chief may from time to time determine
27 and fix.

28 SEC. 3. Section 7506.5 of the Business and Professions Code
29 is amended to read:

30 7506.5. All information obtained on the application shall be
31 confidential pursuant to the Information Practices Act (Chapter 1
32 (commencing with Section 1798) of Title 1.8 of Part 4 of Division
33 3 of the Civil Code) and shall not be released to the public except
34 for the registrant's full name, the licensee's name and address, and
35 the registration number. *A repossession agency shall not disclose*
36 *to the public the residence address, residence telephone number,*
37 *cell phone number, or driver's license number of any registrant.*
38 The application shall be verified and shall include:

1 (a) The full name, residence address, residence telephone
2 number, date and place of birth, and driver's license number of
3 the applicant or registrant.

4 (b) A statement listing any and all names used by the applicant
5 or registrant, other than the name by which he or she is currently
6 known. If the applicant or registrant has never used a name other
7 than his or her true name, this fact shall be set forth in the
8 statement.

9 (c) The name and address of the licensee and the date the
10 employment or contract commenced.

11 (d) The title of the position occupied by the applicant or
12 registrant and a description of his or her duties.

13 (e) Two recent photographs of the applicant or registrant, of a
14 type prescribed by the chief, and two classifiable sets of his or her
15 fingerprints, one set of which shall be forwarded to the Federal
16 Bureau of Investigation for purposes of a background check.

17 (f) The bureau may impose a fee not to exceed three dollars
18 (\$3) for processing classifiable fingerprint cards submitted by
19 applicants, excluding those submitted into an electronic fingerprint
20 system using electronic fingerprint technology.

21 SEC. 4. Section 7506.9 of the Business and Professions Code
22 is amended to read:

23 7506.9. (a) Upon the issuance of the initial registration,
24 reregistration or renewal, the chief shall issue to the registrant a
25 suitable pocket identification card. At the request of the registrant,
26 the identification card may include a photograph of the registrant.
27 The photograph shall be of a size prescribed by the bureau. The
28 card shall contain the name of the licensee with whom the registrant
29 is registered. The applicant may request to be issued an enhanced
30 pocket card that shall be composed of durable material and may
31 incorporate technologically advanced security features. The bureau
32 may charge a fee sufficient to reimburse the department for costs
33 for furnishing the enhanced pocket card. The fee charged may not
34 exceed the actual cost for system development, maintenance, and
35 processing necessary to provide the service, and may not exceed
36 six dollars (\$6). If the applicant does not request an enhanced card,
37 the department shall issue a standard card at no cost to the
38 applicant.

39 (b) Until the registration certificate is issued or denied, a person
40 may be assigned to work with a temporary registration on a secure

1 form prescribed by the chief, and issued by the qualified certificate
2 holder, that has been embossed by the bureau with the state seal
3 for a period not to exceed 120 days from the date the employment
4 or contract commenced, provided the person signs a declaration
5 under penalty of perjury that he or she has not been convicted of
6 a felony or committed any other act constituting grounds for denial
7 of a registration pursuant to Section 7506.8 (unless he or she
8 declares that the conviction of a felony or the commission of a
9 specified act or acts occurred prior to the issuance of a registration
10 by the chief and the conduct was not the cause of any subsequent
11 suspension or termination of a registration), and that he or she has
12 read and understands the provisions of this chapter.

13 (c) The chief shall issue an additional temporary registration
14 for not less than 60 days nor more than 120 days, if the chief
15 determines that the investigation of the applicant will take longer
16 to complete than the initial temporary registration time period.

17 (d) No person shall perform the duties of a registrant for a
18 licensee unless the person has in his or her possession a valid
19 reposessor registration card or evidence of a valid temporary
20 registration or registration renewal as described in subdivision (b)
21 of this section or subdivision (c) of Section 7506.10. Every person,
22 while engaged in any activity for which licensure is required, shall
23 display his or her valid pocket card as provided by regulation.

24 (e) *A person may work as a registrant pending receipt of the*
25 *registration card if he or she has been approved by the bureau*
26 *and carries on his or her person a hardcopy printout of the*
27 *bureau's approval from the bureau's Internet Web site and a valid*
28 *picture identification.*

29 (f) *In the event of the loss or destruction of the card, the*
30 *cardholder may apply to the bureau for a certified replacement of*
31 *the card stating the circumstances surrounding the loss, pay a*
32 *ten-dollar (\$10) certification fee, and the bureau shall issue a*
33 *certified replacement of the card.*

34 SEC. 5. Section 7507.3 of the Business and Professions Code
35 is amended to read:

36 7507.3. A repossession agency shall be required to keep and
37 maintain adequate records of all transactions, including, but not
38 limited to, assignment forms; vehicle report of repossession
39 required by Section 28 of the Vehicle Code; vehicle condition
40 reports, including odometer readings, if available; personal effects

1 inventory; notice of seizure; and records of all transactions
2 pertaining to the sale of collateral that has been repossessed,
3 including, but not limited to, bids solicited and received, cash
4 received, deposits made to the trust account, remittances to the
5 seller, and allocation of any moneys not so remitted to appropriate
6 ledger accounts. Records, including bank statements of the trust
7 account, shall be retained for a period of not less than four years
8 and shall be available for examination by the bureau upon demand.
9 In addition, collateral and personal effects storage areas shall be
10 made accessible for inspection by the bureau upon demand. An
11 assignment form may be an original, a photocopy, a facsimile
12 copy, or a copy stored in an *e-mail, text message, or other*
13 electronic format.

14 SEC. 6. Section 7507.9 of the Business and Professions Code
15 is amended to read:

16 7507.9. Personal effects shall be removed from the collateral,
17 including any personal effect that is mounted but detachable from
18 the collateral by a release mechanism. A complete and accurate
19 inventory of the personal effects shall be made, and the personal
20 effects shall be labeled and stored by the licensee for a minimum
21 of 60 days in a secure manner, except those personal effects
22 removed by or in the presence of the debtor or the party in
23 possession of the collateral at the time of the repossession. If the
24 licensee or the licensee's agent cannot determine whether the
25 property attached to the collateral is a personal effect or a part of
26 the collateral, then that fact shall be noted on the inventory and
27 the licensee or agent shall not be obligated to remove the item
28 from the collateral, unless the item can be removed without the
29 use of tools, in which case it shall be removed and inventoried.
30 The licensee or the licensee's agent shall notify the debtor that if
31 the debtor takes the position that an item is a personal effect, then
32 the debtor shall contact the legal owner to resolve the issue.

33 (a) The date and time the inventory is made shall be indicated.
34 The permanent records of the licensee shall indicate the name of
35 the employee or registrant who performed the inventory.

36 (b) The following items of personal effects are items determined
37 to present a danger or health hazard when recovered by the licensee
38 and shall be disposed of in the following manner:

39 (1) Deadly weapons and dangerous drugs shall be turned over
40 to any law enforcement agency for retention. These items shall be

1 entered on the inventory and a notation shall be made as to the
2 date and the time and the place the deadly weapon or dangerous
3 drug was turned over to the law enforcement agency, and a receipt
4 from the law enforcement agency shall be maintained in the records
5 of the repossession agency.

6 (2) Combustibles shall be inventoried and noted as “disposed
7 of, dangerous combustible,” and the item shall be disposed of in
8 a reasonable and safe manner.

9 (3) Food and other health hazard items shall be inventoried and
10 noted as “disposed of, health hazard,” and disposed of in a
11 reasonable and safe manner.

12 (c) Personal effects may be disposed of after being held for at
13 least 60 days. The inventory, and adequate information as to how,
14 when, and to whom the personal effects were disposed of, shall
15 be filed in the permanent records of the licensee *and retained for*
16 *four years*.

17 (d) The inventory shall include the name, address, business
18 hours, and telephone number of the repossession agency to contact
19 for recovering the personal effects and an itemization of all
20 personal effects removal and storage charges that will be made by
21 the repossession agency. The inventory shall also include the
22 following statement: “Please be advised that the property listed
23 on this inventory will be disposed of by the repossession agency
24 after being held for 60 days from the date of this notice IF
25 UNCLAIMED.”

26 (e) The inventory shall be provided to a debtor not later than
27 48 hours after the recovery of the collateral, except that if:

28 (1) The 48-hour period encompasses a Saturday, Sunday, or
29 postal holiday, the inventory shall be provided no later than 72
30 hours after the recovery of the collateral.

31 (2) The 48-hour period encompasses a Saturday or Sunday and
32 a postal holiday, the inventory shall be provided no later than 96
33 hours after the recovery of the collateral.

34 (3) Inventory resulting from repossession of a yacht, motor
35 home, or travel trailer is such that it shall take at least four hours
36 to inventory, then the inventory shall be provided no later than 96
37 hours after the recovery of the collateral. When the 96-hour period
38 encompasses a Saturday, Sunday, or postal holiday, the inventory
39 shall be provided no later than 120 hours after the recovery of the
40 collateral.

(f) Environmental, Olympic, special interest, or other license plates issued pursuant to Article 8 (commencing with Section 5000), Article 8.4 (commencing with Section 5060) or Article 8.5 (commencing with Section 5100) of Chapter 1 of Division 3 of the Vehicle Code that remain the personal effects of the debtor, *or out-of-state plates*, shall be removed from the collateral and inventoried pursuant to this section. If the plates are not claimed by the debtor within 60 days, they shall either (1) be effectively destroyed and the licensee shall, within 30 days thereafter, notify the Department of Motor Vehicles of their effective destruction on a form promulgated by the chief that has been approved as to form by the Director of the Department of Motor Vehicles; or (2) be retained by the licensee indefinitely to be returned to the debtor upon request, in which case the licensee shall not charge more than 60 days' storage on the plates.

(g) The notice may be given by regular mail addressed to the last known address of the debtor or by personal service at the option of the repossession agency.

(h) With the consent of the licensee, the debtor may waive the preparation and presentation of an inventory if the debtor redeems the personal effects or other personal property not covered by a security interest within the time period for the notices required by this section and signs a statement that he or she has received all the property.

(i) If personal effects or other personal property not covered by a security agreement are to be released to someone other than the debtor, the repossession agency may request written authorization to do so from the debtor.

(j) The inventory shall be a confidential document. A licensee shall only disclose the *existence of and the* contents of the inventory, *and any associated fees*, under the following circumstances:

(1) In response to the order of a court having jurisdiction to issue the order.

(2) In compliance with a lawful subpoena issued by a court of competent jurisdiction.

(3) When the debtor has consented in writing to the release and the written consent is signed and dated by the debtor subsequent to the repossession and states the entity or entities to whom the contents of the inventory may be disclosed.

1 (4) To the debtor.

2 SEC. 7. Section 7507.12 of the Business and Professions Code
3 is amended to read:

4 7507.12. With regard to collateral subject to registration under
5 the Vehicle Code, a repossession is complete when the reposessor
6 gains entry to the collateral or when the collateral becomes
7 connected to a tow truck or the reposessor's tow vehicle, as those
8 terms are defined in Section 615 of the Vehicle Code, *or when the*
9 *reposessor moves, pushes, or gains control of the collateral.* No
10 person other than the legal owner may direct a reposessor to
11 release a vehicle without legal authority to do so.

12 SEC. 8. Section 14602.8 of the Vehicle Code is amended to
13 read:

14 14602.8. (a) (1) If a peace officer determines that a person
15 has been convicted of a violation of Section 23140, 23152, or
16 23153, that the violation occurred within the preceding 10 years,
17 and that one or more of the following circumstances applies to that
18 person, the officer may immediately cause the removal and seizure
19 of the vehicle that the person was driving, under either of the
20 following circumstances:

21 (A) The person was driving a vehicle when the person had 0.10
22 percent or more, by weight, of alcohol in his or her blood.

23 (B) The person driving the vehicle refused to submit to or
24 complete a chemical test requested by the peace officer.

25 (2) A vehicle impounded pursuant to paragraph (1) shall be
26 impounded for the following period of time:

27 (A) Five days, if the person has been convicted once of violating
28 Section 23140, 23152, or 23153, and the violation occurred within
29 the preceding 10 years.

30 (B) Fifteen days, if the person has been convicted two or more
31 times of violating Section 23140, 23152, or 23153, or any
32 combination thereof, and the violations occurred within the
33 preceding 10 years.

34 (3) Within two working days after impoundment, the
35 impounding agency shall send a notice by certified mail, return
36 receipt requested, to the legal owner of the vehicle, at the address
37 obtained from the department, informing the owner that the vehicle
38 has been impounded. Failure to notify the legal owner within two
39 working days shall prohibit the impounding agency from charging
40 for more than five days' impoundment when the legal owner

1 redeems the impounded vehicle. The impounding agency shall
2 maintain a published telephone number that provides information
3 24 hours a day regarding the impoundment of vehicles and the
4 rights of a registered owner to request a hearing. The law
5 enforcement agency shall be open to issue a release to the registered
6 owner or legal owner, or the agent of either, whenever the agency
7 is open to serve the public for regular, nonemergency business.

8 (b) The registered and legal owner of a vehicle that is removed
9 and seized under subdivision (a) or his or her agent shall be
10 provided the opportunity for a storage hearing to determine the
11 validity of, or consider any mitigating circumstances attendant to,
12 the storage, in accordance with Section 22852.

13 (c) Any period during which a vehicle is subjected to storage
14 under this section shall be included as part of the period of
15 impoundment ordered by the court under Section 23594.

16 (d) (1) The impounding agency shall release the vehicle to the
17 registered owner or his or her agent prior to the end of the
18 impoundment period under any of the following circumstances:

19 (A) When the vehicle is a stolen vehicle.

20 (B) When the vehicle is subject to bailment and is driven by an
21 unlicensed employee of a business establishment, including a
22 parking service or repair garage.

23 (C) When the driver of the vehicle is not the sole registered
24 owner of the vehicle and the vehicle is being released to another
25 registered owner of the vehicle who agrees not to allow the driver
26 to use the vehicle until after the end of the impoundment period.

27 (2) A vehicle shall not be released pursuant to this subdivision
28 without presentation of the registered owner's or agent's currently
29 valid driver's license to operate the vehicle and proof of current
30 vehicle registration, or upon order of a court.

31 (e) The registered owner or his or her agent is responsible for
32 all towing and storage charges related to the impoundment, and
33 any administrative charges authorized under Section 22850.5.

34 (f) A vehicle removed and seized under subdivision (a) shall be
35 released to the legal owner of the vehicle or the legal owner's agent
36 prior to the end of the impoundment period if all of the following
37 conditions are met:

38 (1) The legal owner is a motor vehicle dealer, bank, credit union,
39 acceptance corporation, or other licensed financial institution

1 legally operating in this state, or is another person who is not the
2 registered owner and holds a security interest in the vehicle.

3 (2) (A) The legal owner or the legal owner's agent pays all
4 towing and storage fees related to the seizure of the vehicle. A lien
5 sale processing fee shall not be charged to the legal owner who
6 redeems the vehicle prior to the 10th day of impoundment. The
7 impounding authority or any person having possession of the
8 vehicle shall not collect from the legal owner of the type specified
9 in paragraph (1), or the legal owner's agent any administrative
10 charges imposed pursuant to Section 22850.5 unless the legal
11 owner voluntarily requested a poststorage hearing.

12 (B) A person operating or in charge of a storage facility where
13 vehicles are stored pursuant to this section shall accept a valid
14 bank credit card or cash for payment of towing, storage, and related
15 fees by a legal or registered owner or the owner's agent claiming
16 the vehicle. A credit card shall be in the name of the person
17 presenting the card. "Credit card" means "credit card" as defined
18 in subdivision (a) of Section 1747.02 of the Civil Code, except,
19 for the purposes of this section, credit card does not include a credit
20 card issued by a retail seller.

21 (C) A person operating or in charge of a storage facility
22 described in subparagraph (B) who violates subparagraph (B) shall
23 be civilly liable to the owner of the vehicle or to the person who
24 tendered the fees for four times the amount of the towing, storage,
25 and other related fees, but not to exceed five hundred dollars
26 (\$500).

27 (D) A person operating or in charge of a storage facility
28 described in subparagraph (B) shall have sufficient funds on the
29 premises of the primary storage facility during normal business
30 hours to accommodate, and make change in, a reasonable monetary
31 transaction.

32 (E) Credit charges for towing and storage services shall comply
33 with Section 1748.1 of the Civil Code. Law enforcement agencies
34 may include the costs of providing for payment by credit when
35 making agreements with towing companies on rates.

36 (3) (A) The legal owner or the legal owner's agent presents to
37 the law enforcement agency or impounding agency, or any person
38 acting on behalf of those agencies, a copy of the assignment, as
39 defined in subdivision (b) of Section 7500.1 of the Business and
40 Professions Code; a release from the one responsible governmental

1 agency, only if required by the agency; a government-issued
2 photographic identification card; and any one of the following as
3 determined by the legal owner or the legal owner's agent: a
4 certificate of repossession for the vehicle, a security agreement
5 for the vehicle, or title, whether paper or electronic, showing proof
6 of legal ownership for the vehicle. The law enforcement agency,
7 impounding agency, or any other governmental agency, or any
8 person acting on behalf of those agencies, shall not require the
9 presentation of any other documents.

10 (B) The legal owner or the legal owner's agent presents to the
11 person in possession of the vehicle, or any person acting on behalf
12 of the person in possession, a copy of the assignment, as defined
13 in subdivision (b) of Section 7500.1 of the Business and
14 Professions Code; a release from the one responsible governmental
15 agency, only if required by the agency; a government-issued
16 photographic identification card; and any one of the following as
17 determined by the legal owner or the legal owner's agent: a
18 certificate of repossession for the vehicle, a security agreement
19 for the vehicle, or title, whether paper or electronic, showing proof
20 of legal ownership for the vehicle. The person in possession of the
21 vehicle, or any person acting on behalf of the person in possession,
22 shall not require the presentation of any other documents.

23 (C) All presented documents may be originals, photocopies, or
24 facsimile copies, or may be transmitted electronically. The law
25 enforcement agency, impounding agency, or any person acting on
26 behalf of them, shall not require a document to be notarized. The
27 law enforcement agency, impounding agency, or any person in
28 possession of the vehicle, or anyone acting on behalf of those
29 agencies may require the agent of the legal owner to produce a
30 photocopy or facsimile copy of its repossession agency license or
31 registration issued pursuant to Chapter 11 (commencing with
32 Section 7500) of Division 3 of the Business and Professions Code,
33 or to demonstrate, to the satisfaction of the law enforcement
34 agency, impounding agency, any other governmental agency, or
35 any person in possession of the vehicle, or anyone acting on behalf
36 of them, that the agent is exempt from licensure pursuant to Section
37 7500.2 or 7500.3 of the Business and Professions Code.

38 (D) Administrative costs authorized under subdivision (a) of
39 Section 22850.5 shall not be charged to the legal owner of the type
40 specified in paragraph (1), who redeems the vehicle unless the

1 legal owner voluntarily requests a poststorage hearing. A city,
2 county, city and county, or state agency shall not require a legal
3 owner or a legal owner's agent to request a poststorage hearing as
4 a requirement for release of the vehicle to the legal owner or the
5 legal owner's agent. The law enforcement agency, impounding
6 agency, or any governmental agency, or any person acting on
7 behalf of those agencies, shall not require any documents other
8 than those specified in this paragraph. The law enforcement agency,
9 impounding agency, other governmental agency, or any person
10 acting on behalf of those agencies, shall not require any documents
11 to be notarized. The legal owner or the legal owner's agent shall
12 be given a copy of any documents he or she is required to sign,
13 except for a vehicle evidentiary hold logbook. The law enforcement
14 agency, impounding agency, or any person acting on behalf of
15 those agencies, or any person in possession of the vehicle, may
16 photocopy and retain the copies of any documents presented by
17 the legal owner or legal owner's agent.

18 (4) A failure by a storage facility to comply with any applicable
19 conditions set forth in this subdivision shall not affect the right of
20 the legal owner or the legal owner's agent to retrieve the vehicle,
21 provided all conditions required of the legal owner or legal owner's
22 agent under this subdivision are satisfied.

23 (g) (1) A legal owner or the legal owner's agent who obtains
24 release of the vehicle pursuant to subdivision (f) may not release
25 the vehicle to the registered owner of the vehicle or the person
26 who was listed as the registered owner when the vehicle was
27 impounded or any agents of the registered owner, unless the
28 registered owner is a rental car agency, until after the termination
29 of the impoundment period.

30 (2) The legal owner or the legal owner's agent shall not
31 relinquish the vehicle to the registered owner or the person who
32 was listed as the registered owner when the vehicle was impounded
33 until the registered owner or that owner's agent presents his or her
34 valid driver's license or valid temporary driver's license to the
35 legal owner or the legal owner's agent. The legal owner or the
36 legal owner's agent or the person in possession of the vehicle shall
37 make every reasonable effort to ensure that the license presented
38 is valid and possession of the vehicle will not be given to the driver
39 who was involved in the original impoundment proceeding until
40 the expiration of the impoundment period.

1 (3) Prior to relinquishing the vehicle, the legal owner may
2 require the registered owner to pay all towing and storage charges
3 related to the impoundment and any administrative charges
4 authorized under Section 22850.5 that were incurred by the legal
5 owner in connection with obtaining custody of the vehicle.

6 (4) *Any legal owner who knowingly releases or causes the*
7 *release of a vehicle to a registered owner or the person in*
8 *possession of the vehicle at the time of the impoundment or any*
9 *agent of the registered owner in violation of this subdivision shall*
10 *be guilty of a misdemeanor subject to a fine in the amount of two*
11 *thousand dollars (\$2,000) in addition to any other penalties*
12 *established by law.*

13 (5) *The legal owner, registered owner, or person in possession*
14 *of the vehicle shall not change or attempt to change the name of*
15 *the legal owner or the registered owner on the records of the*
16 *department until the vehicle is released from the impoundment.*

17 (h) (1) A vehicle removed and seized under subdivision (a)
18 shall be released to a rental car agency prior to the end of the
19 impoundment period if the agency is either the legal owner or
20 registered owner of the vehicle and the agency pays all towing and
21 storage fees related to the seizure of the vehicle.

22 (2) The owner of a rental vehicle that was seized under this
23 section may continue to rent the vehicle upon recovery of the
24 vehicle. However, the rental car agency shall not rent another
25 vehicle to the driver of the vehicle that was seized until the
26 impoundment period has expired.

27 (3) The rental car agency may require the person to whom the
28 vehicle was rented to pay all towing and storage charges related
29 to the impoundment and any administrative charges authorized
30 under Section 22850.5 that were incurred by the rental car agency
31 in connection with obtaining custody of the vehicle.

32 ~~(4) Any legal owner who knowingly releases or causes the~~
33 ~~release of a vehicle to a registered owner or the person in~~
34 ~~possession of the vehicle at the time of the impoundment or any~~
35 ~~agent of the registered owner in violation of this subdivision shall~~
36 ~~be guilty of a misdemeanor and subject to a fine in the amount of~~
37 ~~two thousand dollars (\$2,000) in addition to any other penalties~~
38 ~~established by law.~~

39 ~~(5) The legal owner, registered owner, or person in possession~~
40 ~~of the vehicle shall not change or attempt to change the name of~~

1 ~~the legal owner or the registered owner on the records of the~~
2 ~~department until the vehicle is released from the impoundment.~~

3 (i) Notwithstanding any other provision of this section, the
4 registered owner, and not the legal owner, shall remain responsible
5 for any towing and storage charges related to the impoundment,
6 any administrative charges authorized under Section 22850.5, and
7 any parking fines, penalties, and administrative fees incurred by
8 the registered owner.

9 (j) The law enforcement agency and the impounding agency,
10 including any storage facility acting on behalf of the law
11 enforcement agency or impounding agency, shall comply with this
12 section and shall not be liable to the registered owner for the
13 improper release of the vehicle to the legal owner or the legal
14 owner's agent provided the release complies with the provisions
15 of this section. The legal owner shall indemnify and hold harmless
16 a storage facility from any claims arising out of the release of the
17 vehicle to the legal owner or the legal owner's agent and from any
18 damage to the vehicle after its release, including the reasonable
19 costs associated with defending any such claims. A law
20 enforcement agency shall not refuse to issue a release to a legal
21 owner or the agent of a legal owner on the grounds that it
22 previously issued a release.

23 SEC. 9. Section 22651 of the Vehicle Code is amended to read:

24 22651. A peace officer, as defined in Chapter 4.5 (commencing
25 with Section 830) of Title 3 of Part 2 of the Penal Code, or a
26 regularly employed and salaried employee, who is engaged in
27 directing traffic or enforcing parking laws and regulations, of a
28 city, county, or jurisdiction of a state agency in which a vehicle is
29 located, may remove a vehicle located within the territorial limits
30 in which the officer or employee may act, under the following
31 circumstances:

32 (a) When a vehicle is left unattended upon a bridge, viaduct, or
33 causeway or in a tube or tunnel where the vehicle constitutes an
34 obstruction to traffic.

35 (b) When a vehicle is parked or left standing upon a highway
36 in a position so as to obstruct the normal movement of traffic or
37 in a condition so as to create a hazard to other traffic upon the
38 highway.

39 (c) When a vehicle is found upon a highway or public land and
40 a report has previously been made that the vehicle is stolen or a

1 complaint has been filed and a warrant thereon is issued charging
2 that the vehicle was embezzled.

3 (d) When a vehicle is illegally parked so as to block the entrance
4 to a private driveway and it is impractical to move the vehicle from
5 in front of the driveway to another point on the highway.

6 (e) When a vehicle is illegally parked so as to prevent access
7 by firefighting equipment to a fire hydrant and it is impracticable
8 to move the vehicle from in front of the fire hydrant to another
9 point on the highway.

10 (f) When a vehicle, except highway maintenance or construction
11 equipment, is stopped, parked, or left standing for more than four
12 hours upon the right-of-way of a freeway that has full control of
13 access and no crossings at grade and the driver, if present, cannot
14 move the vehicle under its own power.

15 (g) When the person in charge of a vehicle upon a highway or
16 public land is, by reason of physical injuries or illness,
17 incapacitated to an extent so as to be unable to provide for its
18 custody or removal.

19 (h) (1) When an officer arrests a person driving or in control
20 of a vehicle for an alleged offense and the officer is, by this code
21 or other law, required or permitted to take, and does take, the
22 person into custody.

23 (2) When an officer serves a notice of an order of suspension
24 or revocation pursuant to Section 13388 or 13389.

25 (i) (1) When a vehicle, other than a rented vehicle, is found
26 upon a highway or public land, or is removed pursuant to this code,
27 and it is known that the vehicle has been issued five or more notices
28 of parking violations to which the owner or person in control of
29 the vehicle has not responded within 21 calendar days of notice
30 of citation issuance or citation issuance or 14 calendar days of the
31 mailing of a notice of delinquent parking violation to the agency
32 responsible for processing notices of parking violations, or the
33 registered owner of the vehicle is known to have been issued five
34 or more notices for failure to pay or failure to appear in court for
35 traffic violations for which a certificate has not been issued by the
36 magistrate or clerk of the court hearing the case showing that the
37 case has been adjudicated or concerning which the registered
38 owner's record has not been cleared pursuant to Chapter 6
39 (commencing with Section 41500) of Division 17, the vehicle may

1 be impounded until that person furnishes to the impounding law
2 enforcement agency all of the following:

3 (A) Evidence of his or her identity.

4 (B) An address within this state at which he or she can be
5 located.

6 (C) Satisfactory evidence that all parking penalties due for the
7 vehicle and all other vehicles registered to the registered owner of
8 the impounded vehicle, and all traffic violations of the registered
9 owner, have been cleared.

10 (2) The requirements in subparagraph (C) of paragraph (1) shall
11 be fully enforced by the impounding law enforcement agency on
12 and after the time that the Department of Motor Vehicles is able
13 to provide access to the necessary records.

14 (3) A notice of parking violation issued for an unlawfully parked
15 vehicle shall be accompanied by a warning that repeated violations
16 may result in the impounding of the vehicle. In lieu of furnishing
17 satisfactory evidence that the full amount of parking penalties or
18 bail has been deposited, that person may demand to be taken
19 without unnecessary delay before a magistrate, for traffic offenses,
20 or a hearing examiner, for parking offenses, within the county in
21 which the offenses charged are alleged to have been committed
22 and who has jurisdiction of the offenses and is nearest or most
23 accessible with reference to the place where the vehicle is
24 impounded. Evidence of current registration shall be produced
25 after a vehicle has been impounded, or, at the discretion of the
26 impounding law enforcement agency, a notice to appear for
27 violation of subdivision (a) of Section 4000 shall be issued to that
28 person.

29 (4) A vehicle shall be released to the legal owner, as defined in
30 Section 370, if the legal owner does all of the following:

31 (A) Pays the cost of towing and storing the vehicle.

32 (B) Submits evidence of payment of fees as provided in Section
33 9561.

34 ~~(C) Completes an affidavit in a form acceptable to the~~
35 ~~impounding law enforcement agency stating that the vehicle was~~
36 ~~not in possession of the legal owner at the time of occurrence of~~
37 ~~the offenses relating to standing or parking. A~~

38 (5) A vehicle released to a legal owner under this subdivision
39 is a repossessed vehicle for purposes of disposition or sale. The
40 impounding agency shall have a lien on any surplus that remains

1 upon sale of the vehicle to which the registered owner is or may
2 be entitled, as security for the full amount of the parking penalties
3 for all notices of parking violations issued for the vehicle and for
4 all local administrative charges imposed pursuant to Section
5 22850.5. The legal owner shall promptly remit to, and deposit
6 with, the agency responsible for processing notices of parking
7 violations from that surplus, on receipt of that surplus, the full
8 amount of the parking penalties for all notices of parking violations
9 issued for the vehicle and for all local administrative charges
10 imposed pursuant to Section 22850.5.

11 ~~(5)~~

12 (6) The impounding agency that has a lien on the surplus that
13 remains upon the sale of a vehicle to which a registered owner is
14 entitled pursuant to paragraph ~~(4)~~ (5) has a deficiency claim against
15 the registered owner for the full amount of the parking penalties
16 for all notices of parking violations issued for the vehicle and for
17 all local administrative charges imposed pursuant to Section
18 22850.5, less the amount received from the sale of the vehicle.

19 (j) When a vehicle is found illegally parked and there are no
20 license plates or other evidence of registration displayed, the
21 vehicle may be impounded until the owner or person in control of
22 the vehicle furnishes the impounding law enforcement agency
23 evidence of his or her identity and an address within this state at
24 which he or she can be located.

25 (k) When a vehicle is parked or left standing upon a highway
26 for 72 or more consecutive hours in violation of a local ordinance
27 authorizing removal.

28 (l) When a vehicle is illegally parked on a highway in violation
29 of a local ordinance forbidding standing or parking and the use of
30 a highway, or a portion thereof, is necessary for the cleaning,
31 repair, or construction of the highway, or for the installation of
32 underground utilities, and signs giving notice that the vehicle may
33 be removed are erected or placed at least 24 hours prior to the
34 removal by a local authority pursuant to the ordinance.

35 (m) Wherever the use of the highway, or a portion of the
36 highway, is authorized by a local authority for a purpose other
37 than the normal flow of traffic or for the movement of equipment,
38 articles, or structures of unusual size, and the parking of a vehicle
39 would prohibit or interfere with that use or movement, and signs
40 giving notice that the vehicle may be removed are erected or placed

1 at least 24 hours prior to the removal by a local authority pursuant
2 to the ordinance.

3 (n) Whenever a vehicle is parked or left standing where local
4 authorities, by resolution or ordinance, have prohibited parking
5 and have authorized the removal of vehicles. A vehicle shall not
6 be removed unless signs are posted giving notice of the removal.

7 (o) (1) When a vehicle is found or operated upon a highway,
8 public land, or an offstreet parking facility under the following
9 circumstances:

10 (A) With a registration expiration date in excess of six months
11 before the date it is found or operated on the highway, public lands,
12 or the offstreet parking facility.

13 (B) Displaying in, or upon, the vehicle, a registration card,
14 identification card, temporary receipt, license plate, special plate,
15 registration sticker, device issued pursuant to Section 4853, or
16 permit that was not issued for that vehicle, or is not otherwise
17 lawfully used on that vehicle under this code.

18 (C) Displaying in, or upon, the vehicle, an altered, forged,
19 counterfeit, or falsified registration card, identification card,
20 temporary receipt, license plate, special plate, registration sticker,
21 device issued pursuant to Section 4853, or permit.

22 (2) When a vehicle described in paragraph (1) is occupied, only
23 a peace officer, as defined in Chapter 4.5 (commencing with
24 Section 830) of Title 3 of Part 2 of the Penal Code, may remove
25 the vehicle.

26 (3) For the purposes of this subdivision, the vehicle shall be
27 released to the *registered* owner or person in control of the vehicle
28 only after the owner or person furnishes the storing law
29 enforcement agency with proof of current registration and a
30 currently valid driver's license to operate the vehicle. *The vehicle*
31 *shall be released to the legal owner or the legal owner's agent*
32 *without proof of current registration, provided that the vehicle*
33 *will only be transported pursuant to the exemption contained in*
34 *Section 4022.*

35 (4) As used in this subdivision, "offstreet parking facility" means
36 an offstreet facility held open for use by the public for parking
37 vehicles and includes a publicly owned facility for offstreet
38 parking, and a privately owned facility for offstreet parking if a
39 fee is not charged for the privilege to park and it is held open for
40 the common public use of retail customers.

1 (p) When the peace officer issues the driver of a vehicle a notice
2 to appear for a violation of Section 12500, 14601, 14601.1,
3 14601.2, 14601.3, 14601.4, 14601.5, or 14604 and the vehicle is
4 not impounded pursuant to Section 22655.5. A vehicle so removed
5 from the highway or public land, or from private property after
6 having been on a highway or public land, shall not be released to
7 the registered owner or his or her agent, except upon presentation
8 of the registered owner's or his or her agent's currently valid
9 driver's license to operate the vehicle and proof of current vehicle
10 registration, or upon order of a court.

11 (q) Whenever a vehicle is parked for more than 24 hours on a
12 portion of highway that is located within the boundaries of a
13 common interest development, as defined in subdivision (c) of
14 Section 1351 of the Civil Code, and signs, as required by paragraph
15 (1) of subdivision (a) of Section 22658 of this code, have been
16 posted on that portion of highway providing notice to drivers that
17 vehicles parked thereon for more than 24 hours will be removed
18 at the owner's expense, pursuant to a resolution or ordinance
19 adopted by the local authority.

20 (r) When a vehicle is illegally parked and blocks the movement
21 of a legally parked vehicle.

22 (s) (1) When a vehicle, except highway maintenance or
23 construction equipment, an authorized emergency vehicle, or a
24 vehicle that is properly permitted or otherwise authorized by the
25 Department of Transportation, is stopped, parked, or left standing
26 for more than eight hours within a roadside rest area or viewpoint.

27 (2) Notwithstanding paragraph (1), when a commercial motor
28 vehicle, as defined in paragraph (1) of subdivision (b) of Section
29 15210, is stopped, parked, or left standing for more than 10 hours
30 within a roadside rest area or viewpoint.

31 (3) For purposes of this subdivision, a roadside rest area or
32 viewpoint is a publicly maintained vehicle parking area, adjacent
33 to a highway, utilized for the convenient, safe stopping of a vehicle
34 to enable motorists to rest or to view the scenery. If two or more
35 roadside rest areas are located on opposite sides of the highway,
36 or upon the center divider, within seven miles of each other, then
37 that combination of rest areas is considered to be the same rest
38 area.

39 (t) When a peace officer issues a notice to appear for a violation
40 of Section 25279.

1 (u) When a peace officer issues a citation for a violation of
2 Section 11700 and the vehicle is being offered for sale.

3 SEC. 10. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.